

position to which appointed" are substituted for "same compensations, as are prescribed for men".

This subsection was part of title IV of the Revised Statutes. The Act of July 26, 1947, ch. 343, § 201(d), as added Aug. 10, 1949, ch. 412, § 4, 63 Stat. 579 (former 5 U.S.C. 171-1), which provides "Except to the extent inconsistent with the provisions of this Act [National Security Act of 1947], the provisions of title IV of the Revised Statutes as now or hereafter amended shall be applicable to the Department of Defense" is omitted from this title, but is not repealed.

Subsection (c) is added on authority of former sections 1072 and 1072a, which are codified in section 5115.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

#### 1967 ACT

This section deletes subsection (a) of 5 U.S.C. 7154 to reflect the repeal of the source statute of that subsection by Public Law 89-261, 79 Stat. 987.

#### AMENDMENTS

1972—Subsec. (b). Pub. L. 92-392 included reference to subchapter IV of chapter 53 of this title.

#### EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-392 effective on first day of first applicable pay period beginning on or after the 90th day after Aug. 19, 1972, see section 15(a) of Pub. L. 92-392, set out as a note under section 5341 of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2105 of this title; title 10 sections 4540, 7212, 9540.

### CHAPTER 73—SUITABILITY, SECURITY, AND CONDUCT

#### SUBCHAPTER I—REGULATION OF CONDUCT

Sec.

7301. Presidential regulations.

#### SUBCHAPTER II—EMPLOYMENT LIMITATIONS

7311. Loyalty and striking.

7312. Employment and clearance; individuals removed for national security.

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#### SUBCHAPTER III—POLITICAL ACTIVITIES

7321. Political contributions and services.

7322. Political use of authority or influence; prohibition.

7323. Political contributions; prohibition.

7324. Influencing elections; taking part in political campaigns; prohibitions; exceptions.

7325. Penalties.

7326. Nonpartisan political activity permitted.

7327. Political activity permitted; employees residing in certain municipalities.

#### SUBCHAPTER IV—FOREIGN GIFTS AND DECORATIONS

[7341. Repealed.]

7342. Receipt and disposition of foreign gifts and decorations.

#### SUBCHAPTER V—MISCONDUCT

7351. Gifts to superiors.

7352. Excessive and habitual use of intoxicants.

#### AMENDMENTS

1968—Pub. L. 90-351, title V, § 1001(b), June 19, 1968, 82 Stat. 235, substituted "Employment Limitations" for "Loyalty, Security, and Striking" as the subchapter II heading and added item 7313.

1967—Pub. L. 90-83, § 1(46), Sept. 11, 1967, 81 Stat. 209, inserted "Gifts and" preceding "Decorations" in the heading for subchapter IV, deleted item 7341, and added item 7342.

#### CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 3374 of this title; title 39 section 410; title 42 sections 2991c, 3522.

### SUBCHAPTER I—REGULATION OF CONDUCT

#### § 7301. Presidential regulations

The President may prescribe regulations for the conduct of employees in the executive branch.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 524.)

#### HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 631 (last 16 words).	R.S. § 1753 (last 16 words).

The words "employees in the executive branch" are substituted for "persons who may receive appointments in the civil service".

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

#### DELEGATION OF FUNCTIONS

For the delegation to the Civil Service Commission of authority of the President to establish regulations for the conduct of persons in the civil service under former section 631 of this title, see section 601 of Ex. Ord. No. 11222, May 8, 1965, 30 F.R. 6469, set out as a note under section 201 of Title 18, Crimes and Criminal Procedure.

For the delegation to the Civil Service Commission of various functions vested in the President, see Ex. Ord. No. 11228, June 14, 1965, 30 F.R. 7739, set out as a note under section 301 of Title 3, The President.

#### EMERGENCY PREPAREDNESS FUNCTIONS

For assignment of certain emergency preparedness functions to the Civil Service Commission, see Parts 1, 28, and 30 of Ex. Ord. No. 11490, Oct. 28, 1969, 34 F.R. 17567, set out as a note under section 2292 of Title 50, Appendix, War and National Defense.

#### DESIGNATION OF DIRECTOR OF THE BUREAU OF THE BUDGET AS MEMBER OF FEDERAL LABOR RELATIONS COUNCIL

Presidential Order of December 8, 1969, provided that:

Pursuant to the provisions of section 4 of Executive Order 11491 [set out as a note under this section], I hereby designate the Director of the Bureau of the Budget [now the Office of Management and Budget] as a member of the Federal Labor Relations Council. This order of designation shall be published in the Federal Register.

RICHARD NIXON.

#### CODE OF ETHICS FOR GOVERNMENT SERVICE

House Concurrent Resolution No. 175, July 11, 1958, 72 Stat. B12 provided that:

"Resolved by the House of Representatives (the Senate concurring). That it is the sense of the Congress that the following Code of Ethics should be adhered to by all Government employees, including officeholders:

#### "CODE OF ETHICS FOR GOVERNMENT SERVICE

"Any person in Government service should:

"1. Put loyalty to the highest moral principles and to country above loyalty to persons, party, or Government department.

"2. Uphold the Constitution, laws, and legal regulations of the United States and of all governments therein and never be a party to their evasion.

"3. Give a full day's labor for a full day's pay: giving to the performance of his duties his earnest effort and best thought.

"4. Seek to find and employ more efficient and economical ways of getting tasks accomplished.

"5. Never discriminate unfairly by the dispensing of special favors or privileges to anyone, whether for remuneration or not; and never accept, for himself or his family, favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of his governmental duties.

"6. Make no private promises of any kind binding upon the duties of office, since a Government employee has no private word which can be binding on public duty.

"7. Engage in no business with the Government, either directly or indirectly, which is inconsistent with the conscientious performance of his governmental duties.

"8. Never use any information coming to him confidentially in the performance of governmental duties as a means for making private profit.

"9. Expose corruption wherever discovered.

"10. Uphold these principles, ever conscious that public office is a public trust."

#### EXECUTIVE ORDER NO. 9845

Ex. Ord. No. 9845, Apr. 28, 1947, 12 F.R. 2799, which permitted Bureau of Reclamation employees to accept appointments as constables or deputy sheriffs under state or territorial laws, was revoked by Ex. Ord. No. 11408, Apr. 25, 1968, 33 F.R. 6459.

#### EXECUTIVE ORDER NO. 10988

Ex. Ord. No. 10988, Jan. 18, 1962, 27 F.R. 551, which related to employee-management cooperation in the Federal service, was revoked by Ex. Ord. No. 11491, Oct. 29, 1969, 34 F.R. 17605, set out as a note under this section.

#### EX. ORD. NO. 11491. LABOR-MANAGEMENT RELATIONS IN THE FEDERAL SERVICE

Ex. Ord. No. 11491, Oct. 29, 1969, 34 F.R. 17605, as amended by Ex. Ord. No. 11616, Aug. 26, 1971, 36 F.R. 17319; Ex. Ord. No. 11636, Dec. 17, 1971, 36 F.R. 24901; Ex. Ord. No. 11838, Feb. 6, 1975, 40 F.R. 5743, 7391, provided:

WHEREAS the public interest requires high standards of employee performance and the continual development and implementation of modern and progressive work practices to facilitate improved employee performance and efficiency; and

WHEREAS the well-being of employees and efficient administration of the Government are benefited by providing employees an opportunity to participate in the formulation and implementation of personnel policies and practices affecting the conditions of their employment; and

WHEREAS the participation of employees should be improved through the maintenance of constructive and cooperative relationships between labor organizations and management officials; and

WHEREAS subject to law and the paramount requirements of public service, effective labor-management relations within the Federal service require a clear statement of the respective rights and obligations of labor organizations and agency management:

NOW, THEREFORE, by virtue of the authority vested in me by the Constitution and statutes of the United States, including sections 3301 and 7301 of title 5 of the United States Code and as President of the United States, I hereby direct that the following policies shall govern officers and agencies of the executive branch of the Government in all dealings with Federal employees and organizations representing such employees.

#### GENERAL PROVISIONS

SECTION 1. *Policy.* (a) Each employee of the executive branch of the Federal Government has the right,

freely and without fear of penalty or reprisal, to form, join, and assist a labor organization or to refrain from any such activity, and each employee shall be protected in the exercise of this right. Except as otherwise expressly provided in this Order, the right to assist a labor organization extends to participation in the management of the organization and acting for the organization in the capacity of an organization representative, including presentation of its views to officials of the executive branch, the Congress, or other appropriate authority. The head of each agency shall take the action required to assure that employees in the agency are apprised of their rights under this section and that no interference, restraint, coercion, or discrimination is practiced within his agency to encourage or discourage membership in a labor organization.

(b) Paragraph (a) of this section does not authorize participation in the management of a labor organization or acting as a representative of such an organization by a supervisor, except as provided in section 24 of this Order, or by an employee when the participation or activity would result in a conflict or apparent conflict of interest or otherwise be incompatible with law or with the official duties of the employee.

SEC. 2. *Definitions.* When used in this Order, the term—

(a) "Agency" means an executive department, a Government corporation, and an independent establishment as defined in section 104 of title 5, United States Code, except the General Accounting Office;

(b) "Employee" means an employee of an agency and an employee of a nonappropriated fund instrumentality of the United States but does not include, for the purpose of exclusive recognition or national consultation rights, a supervisor, except as provided in section 24 of this Order;

(c) "Supervisor" means an employee having authority, in the interest of an agency, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of authority is not of a merely routine or clerical nature, but requires the use of independent judgment;

(d) [Revoked by Ex. Ord. No. 11838, Feb. 6, 1975, 40 F.R. 5743.]

(e) "Labor organization" means a lawful organization of any kind in which employees participate and which exists for the purpose, in whole or in part, of dealing with agencies concerning grievances, personnel policies and practices, or other matters affecting the working conditions of their employees; but does not include an organization which—

(1) consists of management officials or supervisors, except as provided in section 24 of this Order;

(2) assists or participates in a strike against the Government of the United States or any agency thereof, or imposes a duty or obligation to conduct, assist, or participate in such a strike;

(3) advocates the overthrow of the constitutional form of government in the United States; or

(4) discriminates with regard to the terms or conditions of membership because of race, color, creed, sex, age, or national origin;

(f) "Agency management" means the agency head and all management officials, supervisors, and other representatives of management having authority to act for the agency on any matters relating to the implementation of the agency labor-management relations program established under this Order;

(g) "Council" means the Federal Labor Relations Council established by this Order;

(h) "Panel" means the Federal Service Impasses Panel established by this Order; and

(i) "Assistant Secretary" means the Assistant Secretary for Labor-Management Relations.

SEC. 3. *Application.* (a) This Order applies to all employees and agencies in the executive branch, except as provided in paragraphs (b), (c) and (d) of this section.

(b) This Order (except section 22) does not apply to—

- (1) the Federal Bureau of Investigation;
- (2) the Central Intelligence Agency;
- (3) any other agency, or office, bureau, or entity within an agency, which has as a primary function intelligence, investigative, or security work, when the head of the agency determines, in his sole judgment, that the Order cannot be applied in a manner consistent with national security requirements and considerations; or
- (4) any office, bureau or entity within an agency which has as a primary function investigation or audit of the conduct or work of officials or employees of the agency for the purpose of ensuring honesty and integrity in the discharge of their official duties, when the head of the agency determines, in his sole judgment, that the Order cannot be applied in a manner consistent with the internal security of the agency.

(5) The Foreign Service of the United States: Department of State, United States Information Agency and Agency for International Development and its successor agency or agencies.

(c) The head of an agency may, in his sole judgment, suspend any provision of this Order (except section 22) with respect to any agency installation or activity located outside the United States, when he determines that this is necessary in the national interest, subject to the conditions he prescribes.

(d) Employees engaged in administering a labor-management relations law or this Order shall not be represented by a labor organization which also represents other groups of employees under the law or this Order, or which is affiliated directly or indirectly with an organization which represents such a group of employees.

#### ADMINISTRATION

**Sec. 4. Federal Labor Relations Council.** (a) There is hereby established the Federal Labor Relations Council, which consists of the Chairman of the Civil Service Commission, who shall be chairman of the Council, the Secretary of Labor, the Director of the Office of Management and Budget, and such other officials of the executive branch as the President may designate from time to time. The Civil Service Commission shall provide administrative support and services to the Council to the extent authorized by law.

(b) The Council shall administer and interpret this Order, decide major policy issues, prescribe regulations, and from time to time, report and make recommendations to the President.

(c) The Council may consider, subject to its regulations—

(1) appeals from decisions of the Assistant Secretary issued pursuant to section 6 of this order, except where, in carrying out his authority under section 11(d), he makes a negotiability determination, in which instance the party adversely affected shall have a right of appeal;

(2) appeals on negotiability issues as provided in section 11(c) of this Order;

(3) exceptions to arbitration awards; and

(4) other matters it deems appropriate to assure the effectuation of the purposes of this Order.

**Sec. 5. Federal Service Impasses Panel.** (a) There is hereby established the Federal Service Impasses Panel as an agency within the Council. The Panel consists of at least three members appointed by the President, one of whom he designates as chairman. The Council shall provide the services and staff assistance needed by the Panel.

(b) The Panel may consider negotiation impasses as provided in section 17 of this Order and may take any action it considers necessary to settle an impasse.

(c) The Panel shall prescribe regulations needed to administer its function under this Order.

**Sec. 6. Assistant Secretary of Labor for Labor-Management Relations.**

(a) The Assistant Secretary shall—

(1) decide questions as to the appropriate unit for the purpose of exclusive recognition and related issues submitted for his consideration;

(2) supervise elections to determine whether a labor organization is the choice of a majority of the employees in an appropriate unit as their exclusive representative, and certify the results;

(3) decide questions as to the eligibility of labor organizations for national consultation rights under criteria prescribed by the Council;

(4) decide unfair labor practice complaints (including those where an alleged unilateral act by one of the parties requires an initial negotiability determination) and alleged violations of the standards of conduct for labor organizations; and

(5) decide questions as to whether a grievance is subject to a negotiated grievance procedure or subject to arbitration under an agreement as provided in section 13(d) of this order.

(b) In any matters arising under paragraph (a) of this section, the Assistant Secretary may require an agency or a labor organization to cease and desist from violations of this Order and require it to take such affirmative action as he considers appropriate to effectuate the policies of this Order.

(c) In performing the duties imposed on him by this section, the Assistant Secretary may request and use the services and assistance of employees of other agencies in accordance with section 1 of the Act of March 4, 1915 (38 Stat. 1084, as amended; 31 U.S.C. § 686).

(d) The Assistant Secretary shall prescribe regulations needed to administer his functions under this Order.

(e) If any matters arising under paragraph (a) of this section involve the Department of Labor, the duties of the Assistant Secretary described in paragraphs (a) and (b) of this section shall be performed by a member of the Civil Service Commission designated by the Chairman of the Commission.

#### RECOGNITION

**Sec. 7. Recognition in general.** (a) An agency shall accord exclusive recognition or national consultation rights at the request of a labor organization which meets the requirements for the recognition or consultation rights under this Order.

(b) A labor organization seeking recognition shall submit to the agency a roster of its officers and representatives, a copy of its constitution and by-laws, and a statement of its objectives.

(c) When recognition of a labor organization has been accorded, the recognition continues as long as the organization continues to meet the requirements of this Order applicable to that recognition, except that this section does not require an election to determine whether an organization should become, or continue to be recognized as, exclusive representative of the employees in any unit or subdivision thereof within 12 months after a prior valid election with respect to such unit.

(d) Recognition of a labor organization does not—

(1) preclude an employee, regardless of whether he is in a unit of exclusive recognition, from exercising grievance or appellate rights established by law or regulation, or from choosing his own representative in a grievance or appellate action, except when the grievance is covered under a negotiated procedure as provided in section 13;

(2) preclude or restrict consultations and dealings between an agency and a veterans organization with respect to matters of particular interest to employees with veterans preference; or

(3) preclude an agency from consulting or dealing with a religious, social, fraternal, professional or other lawful association, not qualified as a labor organization, with respect to matters or policies which involve individual members of the association or are of particular applicability to it or its members. Consultations and dealings under subparagraph (3) of this paragraph shall be so limited that they do not assume the character of formal consultation on matters of

general employee-management policy covering employees in that unit or extend to areas where recognition of the interests of one employee group may result in discrimination against or injury to the interests of other employees.

(e) [Revoked by Ex. Ord. No. 11838, Feb. 6, 1975, 40 F.R. 5743.]

(f) Informal recognition or formal recognition shall not be accorded.

SEC. 8. [Revoked by Ex. Ord. No. 11616, Aug. 26, 1971, 36 F.R. 17319.]

SEC. 9. *National consultation rights.* (a) An agency shall accord national consultation rights to a labor organization which qualifies under criteria established by the Federal Labor Relations Council as the representative of a substantial number of employees of the agency. National consultation rights shall not be accorded for any unit where a labor organization already holds exclusive recognition at the national level for that unit. The granting of national consultation rights does not preclude an agency from appropriate dealings at the national level with other organizations on matters affecting their members. An agency shall terminate national consultation rights when the labor organization ceases to qualify under the established criteria.

(b) When a labor organization has been accorded national consultation rights, the agency, through appropriate officials, shall notify representatives of the organization of proposed substantive changes in personnel policies that affect employees it represents and provide an opportunity for the organization to comment on the proposed changes. The labor organization may suggest changes in the agency's personnel policies and have its views carefully considered. It may consult in person at reasonable times, on request, with appropriate officials on personnel policy matters, and at all times present its views thereon in writing. An agency is not required to consult with a labor organization on any matter on which it would not be required to meet and confer if the organization were entitled to exclusive recognition.

(c) Questions as to the eligibility of labor organizations for national consultation rights may be referred to the Assistant Secretary for decision.

SEC. 10. *Exclusive recognition.* (a) An agency shall accord exclusive recognition to a labor organization when the organization has been selected, in a secret ballot election, by a majority of the employees in an appropriate unit as their representative; provided that this section shall not preclude an agency from according exclusive recognition to a labor organization, without an election, where the appropriate unit is established through the consolidation of existing exclusively recognized units represented by that organization.

(b) A unit may be established on a plant or installation, craft, functional, or other basis which will ensure a clear and identifiable community of interest among the employees concerned and will promote effective dealings and efficiency of agency operations. A unit shall not be established solely on the basis of the extent to which employees in the proposed unit have organized, nor shall a unit be established if it includes—

(1) any management official or supervisor, except as provided in section 24;

(2) an employee engaged in Federal personnel work in other than a purely clerical capacity; or

(3) [Revoked by Ex. Ord. No. 11838, Feb. 6, 1975, 40 F.R. 5743.]

(4) both professional and nonprofessional employees, unless a majority of the professional employees vote for inclusion in the unit. Questions as to the appropriate unit and related issues may be referred to the Assistant Secretary for decision.

(c) [Revoked by Ex. Ord. No. 11838, Feb. 6, 1975, 40 F.R. 5743.]

(d) All elections shall be conducted under the supervision of the Assistant Secretary, or persons designated by him, and shall be by secret ballot. Each employee eligible to vote shall be provided the opportunity to

choose the labor organization he wishes to represent him, from among those on the ballot, or "no union", except as provided in subparagraph (4) of this paragraph. Elections may be held to determine whether—

(1) a labor organization should be recognized as the exclusive representative of employees in a unit;

(2) a labor organization should replace another labor organization as the exclusive representative;

(3) a labor organization should cease to be the exclusive representative; or

(4) a labor organization should be recognized as the exclusive representative of employees in a unit composed of employees in units currently represented by that labor organization or continue to be recognized in the existing separate units.

(e) When a labor organization has been accorded exclusive recognition, it is the exclusive representative of employees in the unit and is entitled to act for and to negotiate agreements covering all employees in the unit. It is responsible for representing the interests of all employees in the unit without discrimination and without regard to labor organization membership. The labor organization shall be given the opportunity to be represented at formal discussions between management and employees or employee representatives concerning grievances, personnel policies and practices, or other matters affecting general working conditions of employees in the unit.

#### AGREEMENTS

SEC. 11. *Negotiation of agreements.* (a) An agency and a labor organization that has been accorded exclusive recognition, through appropriate representatives, shall meet at reasonable times and confer in good faith with respect to personnel policies and practices and matters affecting working conditions, so far as may be appropriate under applicable laws and regulations, including policies set forth in the Federal Personnel Manual; published agency policies and regulations for which a compelling need exists under criteria established by the Federal Labor Relations Council and which are issued at the agency headquarters level or at the level of a primary national subdivision; a national or other controlling agreement at a higher level in the agency; and this order. They may negotiate an agreement, or any question arising thereunder; determine appropriate techniques, consistent with section 17 of this order, to assist in such negotiation; and execute a written agreement or memorandum of understanding.

(b) In prescribing regulations relating to personnel policies and practices and working conditions, an agency shall have due regard for the obligation imposed by paragraph (a) of this section. However, the obligation to meet and confer does not include matters with respect to the mission of an agency; its budget; its organization; the number of employees; and the numbers, types, and grades of positions or employees assigned to an organizational unit, work project or tour of duty; the technology of performing its work; or its internal security practices. This does not preclude the parties from negotiating agreements providing appropriate arrangements for employees adversely affected by the impact of realignment of work forces or technological change.

(c) If, in connection with negotiations, an issue develops as to whether a proposal is contrary to law, regulation, controlling agreement, or this order and therefore not negotiable, it shall be resolved as follows:

(1) An issue which involves interpretation of a controlling agreement at a higher agency level is resolved under the procedures of the controlling agreement, or, if none, under agency regulations;

(2) An issue other than as described in subparagraph (1) of this paragraph which arises at a local level may be referred by either party to the head of the agency for determination;

(3) An agency head's determination as to the interpretation of the agency's regulations with respect to a proposal is final;

(4) A labor organization may appeal to the Council for a decision when—

(i) it disagrees with an agency head's determination that a proposal would violate applicable law, regulation of appropriate authority outside the agency, or this order, or

(ii) it believes that an agency's regulations, as interpreted by the agency head, violate applicable law, regulation of appropriate authority outside the agency, or this order, or are not otherwise applicable to bar negotiations under paragraph (a) of this section.

(d) If, as the result of an alleged unilateral change in, or addition to, personnel policies and practices or matters affecting working conditions, the acting party is charged with a refusal to consult, confer or negotiate as required under this order, the Assistant Secretary may, in the exercise of his authority under section 6(a) (4) of the order, make those determinations of negotiability as may be necessary to resolve the merits of the alleged unfair labor practice. In such cases the party subject to an adverse ruling may appeal the Assistant Secretary's negotiability determination to the Council.

Sec. 12. *Basic provisions of agreements.* Each agreement between an agency and a labor organization is subject to the following requirements—

(a) in the administration of all matters covered by the agreement, officials and employees are governed by existing or future laws and the regulations of appropriate authorities, including policies set forth in the Federal Personnel Manual; by published agency policies and regulations in existence at the time the agreement was approved; and by subsequently published agency policies and regulations required by law or by the regulations of appropriate authorities, or authorized by the terms of a controlling agreement at a higher agency level;

(b) management officials of the agency retain the right, in accordance with applicable laws and regulations—

(1) to direct employees of the agency;

(2) to hire, promote, transfer, assign, and retain employees in positions within the agency, and to suspend, demote, discharge, or take other disciplinary action against employees;

(3) to relieve employees from duties because of lack of work or for other legitimate reasons;

(4) to maintain the efficiency of the Government operations entrusted to them;

(5) to determine the methods, means, and personnel by which such operations are to be conducted; and

(6) to take whatever actions may be necessary to carry out the mission of the agency in situations of emergency; and

(c) nothing in the agreement shall require an employee to become or to remain a member of a labor organization, or to pay money to the organization except pursuant to a voluntary written authorization by a member for the payment of dues through payroll deductions. The requirements of this section shall be expressly stated in the initial or basic agreement and apply to all supplemental, implementing, subsidiary, or informal agreements between the agency and the organization.

Sec. 13. *Grievance and arbitration procedures.* (a) An agreement between an agency and a labor organization shall provide a procedure, applicable only to the unit, for the consideration of grievances. The coverage and scope of the procedure shall be negotiated by the parties to the agreement with the exception that it may not cover matters for which a statutory appeal procedure exists and so long as it does not otherwise conflict with statute or this order. It shall be the exclusive procedure available to the parties and the employees in the unit for resolving grievances which fall within its coverage. However, any employee or group of employees in the unit may present such grievances to the agency and have them adjusted, without the intervention of the exclusive representative, as long as the adjustment is not inconsistent with the terms of the agreement and the exclusive repre-

sentative has been given opportunity to be present at the adjustment.

(b) A negotiated procedure may provide for arbitration of grievances. Arbitration may be invoked only by the agency or the exclusive representative. Either party may file exceptions to an arbitrator's award with the Council, under regulations prescribed by the Council.

(c) [Revoked.]

(d) Questions that cannot be resolved by the parties as to whether or not a grievance is on a matter for which a statutory appeal procedure exists, shall be referred to the Assistant Secretary for decision. Other questions as to whether or not a grievance is on a matter subject to the grievance procedure in an existing agreement, or is subject to arbitration under that agreement, may by agreement of the parties be submitted to arbitration or may be referred to the Assistant Secretary for decision.

(e) [Revoked.]

Sec. 14. [Revoked by Ex. Ord. No. 11616, Aug. 26, 1971, 36 F.R. 17319.]

Sec. 15. *Approval of agreements.* An agreement with a labor organization as the exclusive representative of employees in a unit is subject to the approval of the head of the agency or an official designated by him. An agreement shall be approved within forty-five days from the date of its execution if it conforms to applicable laws, the order, existing published agency policies and regulations (unless the agency has granted an exception to a policy or regulation) and regulations of other appropriate authorities. An agreement which has not been approved or disapproved within forty-five days from the date of its execution shall go into effect without the required approval of the agency head and shall be binding on the parties subject to the provisions of law, the order and the regulations of appropriate authorities outside the agency. A local agreement subject to a national or other controlling agreement at a higher level shall be approved under the procedures of the controlling agreement, or, if none, under agency regulations.

#### NEGOTIATION DISPUTES AND IMPASSES

Sec. 16. *Negotiation disputes.* The Federal Mediation and Conciliation Service shall provide services and assistance to Federal agencies and labor organizations in the resolution of negotiation disputes. The Service shall determine under what circumstances and in what manner it shall proffer its services.

Sec. 17. *Negotiation impasses.* When voluntary arrangements, including the services of the Federal Mediation and Conciliation Service or other third-party mediation, fail to resolve a negotiation impasse, either party may request the Federal Service Impasses Panel to consider the matter. The Panel, in its discretion and under the regulations it prescribes, may consider the matter and may recommend procedures to the parties for the resolution of the impasse or may settle the impasse by appropriate action. Arbitration or third-party fact finding with recommendations to assist in the resolution of an impasse may be used by the parties only when authorized or directed by the Panel.

#### CONDUCT OF LABOR ORGANIZATIONS AND MANAGEMENT

Sec. 18. *Standards of conduct for labor organizations.*

(a) An agency shall accord recognition only to a labor organization that is free from corrupt influences and influences opposed to basic democratic principles. Except as provided in paragraph (b) of this section, an organization is not required to prove that it has the required freedom when it is subject to governing requirements adopted by the organization or by a national or international labor organization or federation of labor organizations with which it is affiliated or in which it participates, containing explicit and detailed provisions to which it subscribes calling for—

(1) the maintenance of democratic procedures and practices, including provisions for periodic elections to be conducted subject to recognized safeguards and

provisions defining and securing the right of individual members to participation in the affairs of the organization, to fair and equal treatment under the governing rules of the organization, and to fair process in disciplinary proceedings;

(2) the exclusion from office in the organization of persons affiliated with Communist or other totalitarian movements and persons identified with corrupt influences;

(3) the prohibition of business or financial interests on the part of organization officers and agents which conflict with their duty to the organization and its members; and

(4) the maintenance of fiscal integrity in the conduct of the affairs of the organization, including provision for accounting and financial controls and regular financial reports or summaries to be made available to members.

(b) Notwithstanding the fact that a labor organization has adopted or subscribed to standards of conduct as provided in paragraph (a) of this section, the organization is required to furnish evidence of its freedom from corrupt influences or influences opposed to basic democratic principles when there is reasonable cause to believe that—

(1) the organization has been suspended or expelled from or is subject to other sanction by a parent labor organization or federation of organizations with which it had been affiliated because it has demonstrated an unwillingness or inability to comply with governing requirements comparable in purpose to those required by paragraph (a) of this section; or

(2) the organization is in fact subject to influences that would preclude recognition under this Order.

(c) A labor organization which has or seeks recognition as a representative of employees under this Order shall file financial and other reports, provide for bonding of officials and employees of the organization, and comply with trusteeship and election standards.

(d) The Assistant Secretary shall prescribe the regulations needed to effectuate this section. These regulations shall conform generally to the principles applied to unions in the private sector. Complaints of violations of this section shall be filed with the Assistant Secretary.

**Sec. 19. *Unfair labor practices.*** (a) Agency management shall not—

(1) interfere with, restrain, or coerce an employee in the exercise of the rights assured by this Order;

(2) encourage or discourage membership in a labor organization by discrimination in regard to hiring, tenure, promotion, or other conditions of employment;

(3) sponsor, control, or otherwise assist a labor organization, except that an agency may furnish customary and routine services and facilities under section 23 of this Order when consistent with the best interests of the agency, its employees, and the organization, and when the services and facilities are furnished, if requested, on an impartial basis to organizations having equivalent status;

(4) discipline or otherwise discriminate against an employee because he has filed a complaint or given testimony under this Order;

(5) refuse to accord appropriate recognition to a labor organization qualified for such recognition; or

(6) refuse to consult, confer, or negotiate with a labor organization as required by this Order.

(b) A labor organization shall not—

(1) interfere with, restrain, or coerce an employee in the exercise of his rights assured by this Order;

(2) attempt to induce agency management to coerce an employee in the exercise of his rights under this Order;

(3) coerce, attempt to coerce, or discipline, fine, or take other economic sanction against a member of the organization as punishment or reprisal for, or for the purpose of hindering or impeding his work performance, his productivity, or the discharge of his duties owed as an officer or employee of the United States;

(4) call or engage in a strike, work stoppage, or slowdown; picket an agency in a labor-management dis-

pute; or condone any such activity by failing to take affirmative action to prevent or stop it;

(5) discriminate against an employee with regard to the terms or conditions of membership because of race, color, creed, sex, age, or national origin; or

(6) refuse to consult, confer, or negotiate with an agency as required by this Order.

(c) A labor organization which is accorded exclusive recognition shall not deny membership to any employee in the appropriate unit except for failure to meet reasonable occupational standards uniformly required for admission, or for failure to tender initiation fees and dues uniformly required as a condition of acquiring and retaining membership. This paragraph does not preclude a labor organization from enforcing discipline in accordance with procedures under its constitution or by-laws which conform to the requirements of this Order.

(d) Issues which can properly be raised under an appeals procedure may not be raised under this section. Issues which can be raised under a grievance procedure may, in the discretion of the aggrieved party, be raised under that procedure or the complaint procedure under this section, but not under both procedures. Appeals or grievance decisions shall not be construed as unfair labor practice decisions under this Order nor as precedent for such decisions. All complaints under this section that cannot be resolved by the parties shall be filed with the Assistant Secretary.

#### MISCELLANEOUS PROVISIONS

**Sec. 20. *Use of official time.*** Solicitation of membership or dues, and other internal business of a labor organization, shall be conducted during the non-duty hours of the employees concerned. Employees who represent a recognized labor organization shall not be on official time when negotiating an agreement with agency management, except to the extent that the negotiating parties agree to other arrangements which may provide that the agency will either authorize official time for up to 40 hours or authorize up to one-half the time spent in negotiations during regular working hours, for a reasonable number of employees, which number normally shall not exceed the number of management representatives.

**Sec. 21. *Allotment of dues.*** (a) When a labor organization holds formal or exclusive recognition, and the agency and the organization agree in writing to this course of action, an agency may deduct the regular and periodic dues of the organization from the pay of members of the organization in the unit of recognition who make a voluntary allotment for that purpose, and shall recover the costs of making the deductions. Such an allotment is subject to the regulations of the Civil Service Commission, which shall include provision for the employee to revoke his authorization at stated six-month intervals. Such an allotment terminates when—

(1) the dues withholding agreement between the agency and the labor organization is terminated or ceases to be applicable to the employee; or

(2) the employee has been suspended or expelled from the labor organization.

(b) [Revoked by Ex Ord. No. 11838, Feb. 6, 1975, 40 F.R. 5743.]

**Sec. 22. *Adverse action appeals.*** The head of each agency, in accordance with the provisions of this Order and regulations prescribed by the Civil Service Commission, shall extend to all employees in the competitive civil service rights identical in adverse action cases to those provided preference eligibles under sections 7511-7512 of title 5 of the United States Code. Each employee in the competitive service shall have the right to appeal to the Civil Service Commission from an adverse decision of the administrative officer so acting, such appeal to be processed in an identical manner to that provided for appeals under section 7701 of title 5 of the United States Code. Any recommendation by the Civil Service Commission submitted to the head of an agency on the basis of an appeal by an employee in the competitive service shall be complied with by the head of the agency.

Sec. 23. *Agency implementation.* No later than April 1, 1970, each agency shall issue appropriate policies and regulations consistent with this Order for its implementation. This includes but is not limited to a clear statement of the rights of its employees under this Order; procedures with respect to recognition of labor organizations, determination of appropriate units, consultation and negotiation with labor organizations, approval of agreements, mediation, and impasse resolution; policies with respect to the use of agency facilities by labor organizations; and policies and practices regarding consultation with other organizations and associations and individual employees. Insofar as practicable, agencies shall consult with representatives of labor organizations in the formulation of these policies and regulations.

Sec. 24. *Savings clauses.* (a) This Order does not preclude—

(1) the renewal or continuation of a lawful agreement between an agency and a representative of its employees entered into before the effective date of Executive Order No. 10988 (January 17, 1962); or

(2) the renewal, continuation, or initial according of recognition for units of management officials or supervisors represented by labor organizations which historically or traditionally represent the management officials or supervisors in private industry and which hold exclusive recognition for units of such officials or supervisors in any agency on the date of this Order.

(b) All grants of informal recognition under Executive Order No. 10988 terminate on July 1, 1970.

(c) All grants of formal recognition under Executive Order No. 10988 terminate under regulations which the Federal Labor Relations Council shall issue before October 1, 1970.

(d) By not later than December 31, 1970, all supervisors shall be excluded from units of formal and exclusive recognition and from coverage by negotiated agreements, except as provided in paragraph (a) of this section.

Sec. 25. *Guidance, training, review and information.*

(a) The Civil Service Commission, in conjunction with the Office of Management and Budget, shall establish and maintain a program for the policy guidance of agencies on labor-management relations in the Federal service and periodically review the implementation of these policies. The Civil Service Commission shall continuously review the operation of the Federal labor-management relations program to assist in assuring adherence to its provisions and merit system requirements; implement technical advice and information programs for the agencies; assist in the development of programs for training agency personnel and management officials in labor-management relations; and, from time to time, report to the Council on the state of the program with any recommendations for its improvement.

(b) The Department of Labor and the Civil Service Commission shall develop programs for the collection and dissemination of information appropriate to the needs of agencies, organizations and the public.

Sec. 26. *Effective date.* This Order is effective on January 1, 1970 except sections 7(f) and 8 which are effective immediately. Effective January 1, 1970, Executive Order No. 10988 and the President's Memorandum of May 21, 1963, entitled Standards of Conduct for Employee Organizations and Code of Fair Labor Practices, are revoked.

RICHARD NIXON.

EMPLOYEE-MANAGEMENT RELATIONS IN THE FOREIGN SERVICE

For provisions governing employee-management relations in the Foreign Service, see Ex. Ord. No. 11636, Dec. 17, 1971, 36 F.R. 24901, set out as a note under section 801 of Title 22, Foreign Relations and Intercourse.

SUBCHAPTER II—EMPLOYMENT LIMITATIONS

AMENDMENTS

1968—Pub. L. 90-351, title V, § 1001(c), June 19, 1968, 82 Stat. 235, substituted "Employment Limitations" for "Loyalty, Security, and Striking" in the subchapter heading.

§ 7311. Loyalty and striking

An individual may not accept or hold a position in the Government of the United States or the government of the District of Columbia if he—

(1) advocates the overthrow of our constitutional form of government;

(2) is a member of an organization that he knows advocates the overthrow of our constitutional form of government;

(3) participates in a strike, or asserts the right to strike, against the Government of the United States or the government of the District of Columbia; or

(4) is a member of an organization of employees of the Government of the United States or of individuals employed by the government of the District of Columbia that he knows asserts the right to strike against the Government of the United States or the government of the District of Columbia.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 524.)

HISTORICAL AND REVISION NOTES

Derivation	U.S. Code	Revised Statutes and Statutes at Large
.....	5 U.S.C. 118p	Aug. 9, 1955, ch. 690, § 1, 69 Stat. 624.
.....	[Uncodified]	June 29, 1956, ch. 479, § 3, (as applicable to the Act of Aug. 9, 1955, ch. 690, § 1, 69 Stat. 624), 70 Stat. 453.

The word "position" is coextensive with and is substituted for "office or employment".

In paragraphs (1) and (2), the words "in the United States" in former section 118p(1), (2) are omitted as unnecessary in view of the reference to "our constitutional form of government".

In paragraphs (3) and (4), the reference to the "government of the District of Columbia" is added on authority of the Act of June 29, 1956, in order to make these paragraphs meaningful with respect to individuals employed by the government of the District of Columbia. The words "From and after July 1, 1956", appearing in the Act of June 29, 1956, are omitted as executed.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

EX. ORD. NO. 10450. SECURITY REQUIREMENTS FOR GOVERNMENT EMPLOYEES

Ex. Ord. No. 10450, Apr. 27, 1953, 18 F.R. 2489, as amended by Ex. Ord. No. 10491, Oct. 15, 1953, 18 F.R. 6583; Ex. Ord. No. 10531, May 27, 1954, 19 F.R. 3069; Ex. Ord. No. 10548, Aug 3, 1954, 19 F.R. 4871; Ex. Ord. No. 10550, Aug. 6, 1954, 19 F.R. 4981; Ex. Ord. No. 11605, July 2, 1971, 36 F.R. 12831; Ex. Ord. No. 11785, June 4, 1974, 39 F.R. 20053, provided:

WHEREAS the interests of the national security require that all persons privileged to be employed in the departments and agencies of the Government shall be reliable, trustworthy, of good conduct and character, and of complete and unswerving loyalty to the United States; and

WHEREAS the American tradition that all persons should receive fair, impartial, and equitable treatment



at the hands of the Government requires that all persons seeking the privilege of employment or privileged to be employed in the departments and agencies of the Government be adjudged by mutually consistent and no less than minimum standards and procedures among the departments and agencies governing the employment and retention in employment of persons in the Federal service:

Now, THEREFORE, by virtue of the authority vested in me by the Constitution and statutes of the United States, including section 1753 of the Revised Statutes of the United States (5 U.S.C. 631) [now sections 3301 and 7301 of this title]; the Civil Service Act of 1883 (22 Stat. 403; 5 U.S.C. 632, et seq.) [now section 1101 et seq. of this title]; section 9A of the act of August 2, 1939, 53 Stat. 1148 (5 U.S.C. 118j) [now sections 3333 and 7311 of this title]; and the act of August 26, 1950, 64 Stat. 476 (5 U.S.C. 22-1, et seq.) [now section 7501 et seq. of this title], and as President of the United States, and deeming such action necessary in the best interests of the national security it is hereby ordered as follows:

SECTION 1. In addition to the departments and agencies specified in the said act of August 26, 1950, and Executive Order No. 10237 of April 26, 1951 the provisions of that act shall apply to all other departments and agencies of the Government.

SEC. 2. The head of each department and agency of the Government shall be responsible for establishing and maintaining within his department or agency an effective program to insure that the employment and retention in employment of any civilian officer or employee within the department or agency is clearly consistent with the interests of the national security.

SEC. 3. (a) The appointment of each civilian officer or employee in any department or agency of the Government shall be made subject to investigation. The scope of the investigation shall be determined in the first instance according to the degree of adverse effect the occupant of the position sought to be filled could bring about, by virtue of the nature of the position, on the national security, but in no event shall the investigation include less than a national agency check (including a check of the fingerprint files of the Federal Bureau of Investigation), and written inquiries to appropriate local law enforcement agencies, former employers and supervisors, references, and schools attended by the person under investigation: Provided, that upon request of the head of the department or agency concerned, the Civil Service Commission may, in its discretion, authorize such less investigation as may meet the requirements of the national security with respect to per-diem, intermittent, temporary, or seasonal employees, or aliens employed outside the United States. Should there develop at any stage of investigation information indicating that the employment of any such person may not be clearly consistent with the interests of the national security, there shall be conducted with respect to such person a full field investigation, or such less investigation as shall be sufficient to enable the head of the department or agency concerned to determine whether retention of such person is clearly consistent with the interests of the national security.

(b) The head of any department or agency shall designate, or cause to be designated, any position within his department or agency the occupant of which could bring about, by virtue of the nature of the position, a material adverse effect on the national security as a sensitive position. Any position so designated shall be filled or occupied only by a person with respect to whom a full field investigation has been conducted: Provided, that a person occupying a sensitive position at the time it is designated as such may continue to occupy such position pending the completion of a full field investigation, subject to the other provisions of this order: And provided further, that in case of emergency a sensitive position may be filled for a limited period by a person with respect to whom a full field pre-appointment investigation has not been completed if the head of the department or agency concerned

finds that such action is necessary in the national interest, which finding shall be made a part of the records of such department or agency.

SEC. 4. The head of each department and agency shall review, or cause to be reviewed, the cases of all civilian officers and employees with respect to whom there has been conducted a full field investigation under Executive Order No. 9835 of March 21, 1947, and, after such further investigation as may be appropriate, shall re-adjudicate, or cause to be re-adjudicated, in accordance with the said act of August 26, 1950, such of those cases as have not been adjudicated under a security standard commensurate with that established under this order.

SEC. 5. Whenever there is developed or received by any department or agency information indicating that the retention in employment of any officer or employee of the Government may not be clearly consistent with the interests of the national security, such information shall be forwarded to the head of the employing department or agency or his representative, who, after such investigation as may be appropriate, shall review, or cause to be reviewed, and, where necessary, re-adjudicate, or cause to be re-adjudicated, in accordance with the said act of August 26, 1950, the case of such officer or employee.

SEC. 6. Should there develop at any stage of investigation information indicating that the employment of any officer or employees of the Government may not be clearly consistent with the interests of the national security, the head of the department or agency concerned or his representative shall immediately suspend the employment of the person involved if he deems such suspension necessary in the interests of the national security and, following such investigation and review as he deems necessary the head of the department or agency concerned shall terminate the employment of such suspended officer in the interests of the national security, or employee whenever he shall determine such termination necessary or advisable in accordance with the said act of August 26, 1950.

SEC. 7. Any person whose employment is suspended or terminated under the authority granted to heads of departments and agencies by or in accordance with the said act of August 26, 1950, or pursuant to the said Executive Order No. 9835 or any other security or loyalty program relating to officers or employees of the Government, shall not be reinstated or restored to duty or reemployed in the same department or agency and shall not be reemployed in any other department or agency, unless the head of the department or agency concerned finds that such reinstatement, restoration, or reemployment is clearly consistent with the interests of the national security, which finding shall be made a part of the records of such department or agency: Provided, that no person whose employment has been terminated under such authority thereafter may be employed by any other department or agency except after a determination by the Civil Service Commission that such person is eligible for such employment.

SEC. 8. (a) The investigations conducted pursuant to this order shall be designed to develop information as to whether the employment or retention in employment in the Federal service of the person being investigated is clearly consistent with the interests of the national security. Such information shall relate, but shall not be limited, to the following:

(1) Depending on the relation of the Government employment to the national security:

(i) Any behavior, activities, or associations which tend to show that the individual is not reliable or trustworthy.

(ii) Any deliberate misrepresentations, falsifications or omissions of material facts.

(iii) Any criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, habitual use of intoxicants to excess, drug addiction or sexual perversion.

(iv) Any illness, including any mental condition, of a nature which in the opinion of competent medical authority may cause significant defect in the judgment



or reliability of the employee, with due regard to the transient or continuing effect of the illness and the medical findings in such case.

(v) Any facts which furnish reason to believe that the individual may be subjected to coercion, influence, or pressure which may cause him to act contrary to the best interests of the national security.

(2) Commission of any act of sabotage, espionage, treason, or sedition, or attempts thereat or preparation therefor, or conspiring with, or aiding or abetting another to commit or attempt to commit any act of sabotage, espionage, treason, or sedition.

(3) Establishing or continuing a sympathetic association with a saboteur, spy, traitor, seditionist, anarchist, or revolutionist, or with any espionage or other secret agent or representative of a foreign nation, or any representative of a foreign nation whose interests may be inimical to the interests of the United States, or with any person who advocates the use of force or violence to overthrow the government of the United States or the alteration of the form of government of the United States by unconstitutional means.

(4) Advocacy of use of force or violence to overthrow the government of the United States, or of the alteration of the form of government of the United States by unconstitutional means.

(5) Knowing membership with the specific intent of furthering the aims of, or adherence to and active participation in, any foreign or domestic organization, association, movement, group, or combination of persons (hereinafter referred to as organizations) which unlawfully advocates or practices the commission of acts of force or violence to prevent others from exercising their rights under the Constitution or laws of the United States or of any State, or which seeks to overthrow the Government of the United States or any State or subdivision thereof by unlawful means.

(6) Intentional unauthorized disclosure to any person of security information, or of other information disclosure of which is prohibited by law, or willful violation or disregard of security regulations.

(7) Performing or attempting to perform his duties, or otherwise acting, so as to serve the interests of another government in preference to the interests of the United States.

(8) Refusal by the individual, upon the ground of constitutional privilege against self-incrimination, to testify before a congressional committee regarding charges of his alleged disloyalty or other misconduct.

(b) The investigation of persons entering or employed in the competitive service shall primarily be the responsibility of the Civil Service Commission, except in cases in which the head of a department or agency assumes that responsibility pursuant to law or by agreement with the Commission. The Commission shall furnish a full investigative report to the department or agency concerned.

(c) The investigation of persons (including consultants, however employed), entering employment of, or employed by, the Government other than in the competitive service shall primarily be the responsibility of the employing department or agency. Departments and agencies without investigative facilities may use the investigative facilities of the Civil Service Commission, and other departments and agencies may use such facilities under agreement with the Commission.

(d) There shall be referred promptly to the Federal Bureau of Investigation all investigations being conducted by any other agencies which develop information indicating that an individual may have been subjected to coercion, influence, or pressure to act contrary to the interests of the national security, or information relating to any of the matters described in subdivisions (2) through (8) of subsection (a) of this section. In cases so referred to it, the Federal Bureau of Investigation shall make a full field investigation.

SEC. 9. (a) There shall be established and maintained in the Civil Service Commission a security-investigations index covering all persons as to whom security investigations have been conducted by any department or agency of the Government under this order.

The central index established and maintained by the Commission under Executive Order No. 9835 of March 21, 1947, shall be made a part of the security-investigations index. The security-investigations index shall contain the name of each person investigated, adequate identifying information concerning each such person, and a reference to each department and agency which has conducted an investigation concerning the person involved or has suspended or terminated the employment of such person under the authority granted to heads of departments and agencies by or in accordance with the said act of August 26, 1950.

(b) The heads of all departments and agencies shall furnish promptly to the Civil Service Commission information appropriate for the establishment and maintenance of the security-investigations index.

(c) The reports and other investigative material and information developed by investigations conducted pursuant to any statute, order, or program described in section 7 of this order shall remain the property of the investigative agencies conducting the investigations, but may, subject to considerations of the national security, be retained by the department or agency concerned. Such reports and other investigative material and information shall be maintained in confidence, and no access shall be given thereto except with the consent of the investigative agency concerned, to other departments and agencies conducting security programs under the authority granted by or in accordance with the said act of August 26, 1950, as may be required for the efficient conduct of Government business.

SEC. 10. Nothing in this order shall be construed as eliminating or modifying in any way the requirement for any investigation or any determination as to security which may be required by law.

SEC. 11. On and after the effective date of this order the Loyalty Review Board established by Executive Order No. 9835 of March 21, 1947, shall not accept agency findings for review, upon appeal or otherwise. Appeals pending before the Loyalty Review Board on such date shall be heard to final determination in accordance with the provisions of the said Executive Order No. 9835, as amended. Agency determinations favorable to the officer or employee concerned pending before the Loyalty Review Board on such date shall be acted upon by such Board, and whenever the Board is not in agreement with such favorable determination the case shall be remanded to the department or agency concerned for determination in accordance with the standards and procedures established pursuant to this order. Cases pending before the regional loyalty boards of the Civil Service Commission on which hearings have not been initiated on such date shall be referred to the department or agency concerned. Cases being heard by regional loyalty boards on such date shall be heard to conclusion, and the determination of the board shall be forwarded to the head of the department or agency concerned: Provided, that if no specific department or agency is involved, the case shall be dismissed without prejudice to the applicant. Investigations pending in the Federal Bureau of Investigation or the Civil Service Commission on such date shall be completed, and the reports thereon shall be made to the appropriate department or agency.

SEC. 12. Executive Order No. 9835 of March 21, 1947, as amended, is hereby revoked.

SEC. 13. The Attorney General is requested to render to the heads of departments and agencies such advice as may be requisite to enable them to establish and maintain an appropriate employee-security program.

SEC. 14. (a) The Civil Service Commission, with the continuing advice and collaboration of representatives of such departments and agencies as the National Security Council may designate, shall make a continuing study of the manner in which this order is being implemented by the departments and agencies of the Government for the purpose of determining:

(1) Deficiencies in the department and agency security programs established under this order which are

inconsistent with the interests of or directly or indirectly weaken, the national security.

(2) Tendencies in such programs to deny to individual employees fair, impartial and equitable treatment at the hands of the Government, or rights under the Constitution and laws of the United States or this order.

Information affecting any department or agency developed or received during the course of such continuing study shall be furnished immediately to the head of the department or agency concerned. The Civil Service Commission shall report to the National Security Council, at least semiannually, on the results of such study, shall recommend means to correct any such deficiencies or tendencies, and shall inform the National Security Council immediately of any deficiency which is deemed to be of major importance.

(b) All departments and agencies of the Government are directed to cooperate with the Civil Service Commission to facilitate the accomplishment of the responsibilities assigned to it by subsection (a) of this section.

(c) To assist the Civil Service Commission in discharging its responsibilities under this order, the head of each department and agency shall, as soon as possible and in no event later than ninety days after receipt of the final investigative report on a civilian officer or employee subject to a full field investigation under the provisions of this order, advise the Commission as to the action taken with respect to such officer or employee. The information furnished by the heads of departments and agencies pursuant to this section shall be included in the reports which the Civil Service Commission is required to submit to the National Security Council in accordance with subsection (a) of this section. Such reports shall set forth any deficiencies on the part of the heads of departments and agencies in taking timely action under this order, and shall mention specifically any instances of noncompliance with this subsection.

Sec. 15. This order shall become effective thirty days after the date hereof.

#### EXECUTIVE ORDER NO. 11605

Ex. Ord. No. 11605, July 2, 1971, 36 F.R. 12831, which amended Ex. Ord. No. 10450, Apr. 27, 1953, 18 F.R. 2489, set out as a note under this section, which related to security requirements for government employees, was revoked by Ex. Ord. No. 11785, June 4, 1974, 39 F.R. 20053, set out as a note under this section.

#### EX. ORD. NO. 11785, SECURITY REQUIREMENTS FOR GOVERNMENTAL EMPLOYEES

Ex. Ord. No. 11785, June 4, 1974, 39 F.R. 20053, provided:

By virtue of the authority vested in me by the Constitution and statutes of the United States, including 5 U.S.C. 1101 *et seq.*, 3301, 3571, 7301, 7313, 7501(c), 7512, 7532, and 7533; and as President of the United States, and finding such action necessary in the best interests of national security, it is hereby ordered as follows:

SECTION 1. Section 12 of Executive Order No. 10450 of April 27, 1953, as amended [set out as a note under this section], is revised to read in its entirety as follows:

"SEC. 12. Executive Order No. 9835 of March 21, 1947, as amended, is hereby revoked."

SEC. 2. Neither the Attorney General, nor the Subversive Activities Control Board, nor any other agency shall designate organizations pursuant to section 12 of Executive Order No. 10450, as amended, nor circulate nor publish a list of organizations previously so designated. The list of organizations previously designated is hereby abolished and shall not be used for any purpose.

SEC. 3. Subparagraph (5) of paragraph (a) of section 8 of Executive Order No. 10450, as amended, is revised to read as follows:

"Knowing membership with the specific intent of furthering the aims of, or adherence to and active par-

ticipation in, any foreign or domestic organization, association, movement, group, or combination of persons (hereinafter referred to as organizations) which unlawfully advocates or practices the commission of acts of force or violence to prevent others from exercising their rights under the Constitution or laws of the United States or of any State, or which seeks to overthrow the Government of the United States or any State or subdivision thereof by unlawful means."

SEC. 4. Executive Order No. 11605 of July 2, 1971, is revoked.

RICHARD NIXON.

#### CROSS REFERENCES

Affidavit that acceptance of office will not violate this section, see section 3333 of this title.

Disloyalty and asserting the right to strike against the Government, public officers and employees, see section 1918 of Title 18, Crimes and Criminal Procedure.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3333 of this title; title 18 section 1918.

#### § 7312. Employment and clearance; individuals removed for national security

Removal under section 7532 of this title does not affect the right of an individual so removed to seek or accept employment in an agency of the United States other than the agency from which removed. However, the appointment of an individual so removed may be made only after the head of the agency concerned has consulted with the Civil Service Commission. The Commission, on written request of the head of the agency or the individual so removed, may determine whether the individual is eligible for employment in an agency other than the agency from which removed.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 524.)

#### HISTORICAL AND REVISION NOTES

Derivation	U.S. Code	Revised Statutes and Statutes at Large
.....	5 U.S.C. 22-1 (4th and 5th provisos).	Aug. 26, 1950, ch. 803, § 1 (4th and 5th provisos), 64 Stat. 477.

The words "Removal under section 7532 of this title" and "so removed" are coextensive with and substituted for "termination of employment herein provided" and "whose employment has been terminated under the provisions of said sections", respectively.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

#### § 7313. Riots and civil disorders

(a) An individual convicted by any Federal, State, or local court of competent jurisdiction of—

- (1) inciting a riot or civil disorder;
- (2) organizing, promoting, encouraging, or participating in a riot or civil disorder;
- (3) aiding or abetting any person in committing any offense specified in clause (1) or (2); or
- (4) any offense determined by the head of the employing agency to have been committed in furtherance of, or while participating in, a riot or civil disorder;

shall, if the offense for which he is convicted is a felony, be ineligible to accept or hold any position in the Government of the United States

or in the government of the District of Columbia for the five years immediately following the date upon which his conviction becomes final. Any such individual holding a position in the Government of the United States or the government of the District of Columbia on the date his conviction becomes final shall be removed from such position.

(b) For the purposes of this section, "felony" means any offense for which imprisonment is authorized for a term exceeding one year.

(Added Pub. L. 90-351, title V, § 1001(a), June 19, 1968, 82 Stat. 235.)

#### EFFECTIVE DATE

Section 1002 of Pub. L. 90-351 provided that: "The provisions of section 1001(a) of this title [enacting this section] shall apply only with respect to acts referred to in section 7313(a)(1)-(4) of title 5, United States Code, as added by section 1001 of this title [subsec. (a) (1)-(4) of this section], which are committed after the date of enactment of this title [June 19, 1968]."

#### RECEIPT OF BENEFITS UNDER LAWS PROVIDING RELIEF FOR DISASTER VICTIMS

Section 1106(e) of Pub. L. 90-448, title XI, Aug. 1, 1968, 82 Stat. 567, provided that: "No person who has been convicted of committing a felony during and in connection with a riot or civil disorder shall be permitted, for a period of one year after the date of his conviction, to receive any benefit under any law of the United States providing relief for disaster victims."

### SUBCHAPTER III—POLITICAL ACTIVITIES

#### COMMISSION ON POLITICAL ACTIVITY OF GOVERNMENT PERSONNEL

Pub. L. 89-617, Oct. 3, 1966, 80 Stat. 868, as amended by Pub. L. 90-55, July 20, 1967, 81 Stat. 124, established a Commission on Political Activity of Government Personnel to make a full and complete investigation and study of the Federal laws which limit or discourage the participation of Federal and State officers and employees in political activity with a view to determining the effect of such laws, the need for their revision or elimination, and an appraisal of the extent to which undesirable results might accrue from their repeal. The Commission was directed to submit a comprehensive report of its activities and the results of its studies to the President and to the Congress on or before December 31, 1967.

#### SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in title 42 sections 4309, 5055.

#### SUBCHAPTER REFERRED TO IN D.C. CODE

This subchapter is referred to in section 1-128 of the District of Columbia Code.

#### § 7321. Political contributions and services

The President may prescribe rules which shall provide, as nearly as conditions of good administration warrant, that an employee in an Executive agency or in the competitive service is not obliged, by reason of that employment, to contribute to a political fund or to render political service, and that he may not be removed or otherwise prejudiced for refusal to do so.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 525.)

#### HISTORICAL AND REVISION NOTES

Derivation	U.S. Code	Revised Statutes and Statutes at Large
.....	5 U.S.C. 633(2)5	Jan. 16, 1883, ch. 27, § 2(2) 5, 22 Stat. 404.

The authority of the President to prescribe rules is added on authority of former section 633(1), which is carried into section 3302 of this title.

The words "employee in an Executive agency or in the competitive service" are substituted for "person in the public service" for clarity.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

#### CROSS REFERENCES

President's power to grant exceptions from provisions of this section, see section 3302 of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3302 of this title.

#### § 7322. Political use of authority or influence; prohibition

The President may prescribe rules which shall provide, as nearly as conditions of good administration warrant, that an employee in an Executive agency or in the competitive service may not use his official authority or influence to coerce the political action of a person or body.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 525.)

#### HISTORICAL AND REVISION NOTES

Derivation	U.S. Code	Revised Statutes and Statutes at Large
.....	5 U.S.C. 633(2) 6 (1st sentence).	Jan. 16, 1883, ch. 27, § 2(2) 6, 22 Stat. 404.

The authority of the President to prescribe rules is added on authority of former section 633(1), which is carried into section 3302 of this title.

The words "employee in an Executive agency or in the competitive service" are substituted for "person in said service" for clarity.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

#### CROSS REFERENCES

President's power to grant exceptions from provisions of this section, see section 3302 of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3302 of this title.

#### § 7323. Political contributions; prohibition

An employee in an Executive agency (except one appointed by the President, by and with the advice and consent of the Senate) may not request or receive from, or give to, an employee, a Member of Congress, or an officer of a uniformed service a thing of value for political purposes. An employee who violates this section shall be removed from the service.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 525.)

## HISTORICAL AND REVISION NOTES

Derivation	U.S. Code	Revised Statutes and Statutes at Large
.....	5 U.S.C. 118o	Aug. 15, 1876, ch. 287, § 6, 19 Stat. 169.

The words "An employee of an Executive agency (except one appointed by the President, by and with the advice and consent of the Senate)" are substituted for "Any executive officer or employee of the United States not appointed by the President, with the advice and consent of the Senate," because of the definitions in sections 105 and 2105. The words "an employee, a Member of Congress, or an officer of a uniformed service" are substituted for "any other officer or employee of the Government". In the last sentence, the word "removed" is substituted for "at once discharged" because of the provisions of the Lloyd-LaFollette Act, 37 Stat. 555, as amended, and the Veterans' Preference Act of 1944, 58 Stat. 387, as amended, which are carried into this title.

The criminal penalty appearing in the last 25 words of section 6 of the Act of Aug. 15, 1876, is omitted as superseded by sections 602 and 607 of title 18.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

## CROSS REFERENCES

Employees to be removed from competitive service only for cause, see section 7501 of this title.

## § 7324. Influencing elections; taking part in political campaigns; prohibitions; exceptions

(a) An employee in an Executive agency or an individual employed by the government of the District of Columbia may not—

- (1) use his official authority or influence for the purpose of interfering with or affecting the result of an election; or
- (2) take an active part in political management or in political campaigns.

For the purpose of this subsection, the phrase "an active part in political management or in political campaigns" means those acts of political management or political campaigning which were prohibited on the part of employees in the competitive service before July 19, 1940, by determinations of the Civil Service Commission under the rules prescribed by the President.

(b) An employee or individual to whom subsection (a) of this section applies retains the right to vote as he chooses and to express his opinion on political subjects and candidates.

(c) Subsection (a) of this section does not apply to an individual employed by an educational or research institution, establishment, agency, or system which is supported in whole or in part by the District of Columbia or by a recognized religious, philanthropic, or cultural organization.

(d) Subsection (a)(2) of this section does not apply to—

- (1) an employee paid from the appropriation for the office of the President;
- (2) the head or the assistant head of an Executive department or military department;
- (3) an employee appointed by the President, by and with the advice and consent of the Senate, who determines policies to be pursued by the United States in its relations with foreign powers or in the nationwide administration of Federal laws;
- (4) the Mayor of the District of Columbia, the members of the Council of the District of

Columbia, or the Chairman of the Council of the District of Columbia, as established by the District of Columbia Self-Government and Governmental Reorganization Act; or

(5) the Recorder of Deeds of the District of Columbia.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 525; Pub. L. 93-268, § 4(a), Apr. 17, 1974, 88 Stat. 87.)

## HISTORICAL AND REVISION NOTES

Derivation	U.S. Code	Revised Statutes and Statutes at Large
(a)	5 U.S.C. 118l(a) (1st 2 sentences).	Aug. 2, 1939, ch. 410, § 9(a) (1st 2 sentences), 53 Stat. 1148. Mar. 27, 1942, ch. 199, § 701, 56 Stat. 181.
	5 U.S.C. 118k-3 (1st 33 words).	July 19, 1940, ch. 640, § 4 "Sec. 14 (1st 33 words)", 54 Stat. 771.
	5 U.S.C. 118l (less applicability to 5 U.S.C. 118k).	July 19, 1940, ch. 640, § 4 (less applicability to § 12 of the Act of Aug. 2, 1939; added July 19, 1940, ch. 640, § 4, 54 Stat. 767)", 54 Stat. 771.
(b)	5 U.S.C. 118l(a) (3d sentence).	Aug. 2, 1939, ch. 410, § 9(a) (3d sentence), 53 Stat. 1148. July 19, 1940, ch. 640, § 2, 54 Stat. 767.
(c)	5 U.S.C. 118k-1 (less applicability to 5 U.S.C. 118k).	Oct. 24, 1942, ch. 620, "Sec. 21 (less applicability to § 12 of the Act of Aug. 2, 1939; added July 19, 1940, ch. 640, § 4, 54 Stat. 767)" 56 Stat. 986.
(d)	5 U.S.C. 118l(a) (4th sentence).	Aug. 2, 1939, ch. 410, § 9(a) (4th sentence), 53 Stat. 1148.
	5 U.S.C. 118k-3 (less 1st 33 words).	July 19, 1940, ch. 640, § 4 "Sec. 14 (less 1st 33 words)", 54 Stat. 771.

In subsection (a), the words "July 19, 1940" are substituted for "at the time this section takes effect". The amendment made by the Act of Mar. 27, 1942, is omitted because it expired Mar. 31, 1947, under section 1501 of that Act, as added June 29, 1946, ch. 526, § 1, 60 Stat. 345; 50A U.S.C. 645.

In subsection (c), the reference in the Act of Oct. 24, 1942, to section 2 of the Act of Aug. 2, 1939, is omitted as that section was repealed by the Act of June 25, 1948, ch. 645, § 21, 62 Stat. 867, and is now covered by section 595 of title 18.

In subsection (d), the exception for the President and Vice-President of the United States is omitted as unnecessary, as they are not "employees" under the definition in section 2105. In subsection (d)(2), the words "or military departments" are inserted to preserve the application of the source law. Before enactment of the National Security Act Amendments of 1949 (63 Stat. 578), the Department of the Army, the Department of the Navy, and the Department of the Air Force were Executive departments. The National Security Act Amendments of 1949 established the Department of Defense as an Executive Department including the Department of the Army, the Department of the Navy, and the Department of the Air Force as military departments, not as Executive departments. However, the source law for this subsection, which was in effect in 1949, remained applicable to the head or assistant head of a military department by virtue of section 12(g) of the National Security Act Amendments of 1949 (63 Stat. 591), which is set out in the reviser's note for section 301.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

## AMENDMENTS

1974—Subsec. (d)(4). Pub. L. 93-268 substituted "the Mayor of the District of Columbia, the members of the Council of the District of Columbia, or the Chairman of the Council of the District of Columbia, as established by the District of Columbia Self-Government and Governmental Reorganization Act" for "the Commissioners of the District of Columbia".

COMMISSIONER OF THE DISTRICT OF COLUMBIA AND MEMBERS OF THE DISTRICT OF COLUMBIA COUNCIL EXEMPTED FROM PROHIBITIONS

Section 4(b) of Pub. L. 93-268 provided that: "Notwithstanding any other provision of law, the provisions of section 7324(a)(2) of title 5, United States Code (subsec. (a)(2) of this section), shall not be applicable to the Commissioner of the District of Columbia or the members of the District of Columbia Council (including the Chairman and Vice Chairman), as established by Reorganization Plan Numbered 3 of 1967 [set out in the Appendix to this title]."

## CROSS REFERENCES

Political activities of State and local officers and employees, see section 1501 et seq. of this title.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7325, 7326, 7327 of this title.

## SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

## § 7325. Penalties

An employee or individual who violates section 7324 of this title shall be removed from his position, and funds appropriated for the position from which removed thereafter may not be used to pay the employee or individual. However, if the Civil Service Commission finds by unanimous vote that the violation does not warrant removal, a penalty of not less than 30 days' suspension without pay shall be imposed by direction of the Commission.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 526.)

## HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 118i(b) (less last proviso, and less last sentence).	Aug. 2, 1939, ch. 410, § 9(b), 53 Stat. 1148. DAug. 25, 1950, ch. 784, § 1 "Sec. 9(b) (less last proviso, and less last sentence)", 64 Stat. 475. Oct. 5, 1962, Pub. L. 87-753, 76 Stat. 750.

The word "removed" is substituted for "removed immediately" because of the provisions of the Veterans' Preference Act of 1944, 58 Stat. 387, as amended, which is carried into this title. The words "or office" are omitted as included in "position". The words "by any Act of Congress" are omitted as unnecessary.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

## CROSS REFERENCES

Report to President on individuals on whom Commission has imposed a penalty under this section, see section 1308 of this title.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1308 of this title.

## SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

## § 7326. Nonpartisan political activity permitted

Section 7324(a)(2) of this title does not prohibit political activity in connection with—

(1) an election and the preceding campaign if none of the candidates is to be nominated or elected at that election as representing a party any of whose candidates for presidential elector received votes in the last preceding election at which presidential electors were selected; or

(2) a question which is not specifically identified with a National or State political party or political party of a territory or possession of the United States.

For the purpose of this section, questions relating to constitutional amendments, referendums, approval of municipal ordinances, and others of a similar character, are deemed not specifically identified with a National or State political party or political party of a territory or possession of the United States.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 526.)

## HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 118n (less applicability to 5 U.S.C. 118k(a)).	July 19, 1940, ch. 640, § 4 "Sec. 18 (less applicability to § 12 of the Act of Aug. 2, 1939; added July 19, 1940, ch. 640, § 4, 54 Stat. 767)".

The words "or political part of a territory or possession of the United States" are added on authority of former section 118k-2, which is carried into section 1501.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

## SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

## § 7327. Political activity permitted; employees residing in certain municipalities

(a) Section 7324(a)(2) of this title does not apply to an employee of The Alaska Railroad who resides in a municipality on the line of the railroad in respect to political activities involving that municipality.

(b) The Civil Service Commission may prescribe regulations permitting employees and individuals to whom section 7324 of this title applies to take an active part in political management and political campaigns involving the municipality or other political subdivision in which they reside, to the extent the Commission considers it to be in their domestic interest, when—

(1) the municipality or political subdivision is in Maryland or Virginia and in the immediate vicinity of the District of Columbia, or is a municipality in which the majority of voters are employed by the Government of the United States; and

(2) the Commission determines that because of special or unusual circumstances which exist in the municipality or political

subdivision it is in the domestic interest of the employees and individuals to permit that political participation.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 526.)

#### HISTORICAL AND REVISION NOTES

Derivation	U.S. Code	Revised Statutes and Statutes at Large
(a)	5 U.S.C. 1181 (a) (less 1st 4 sentences).	Aug. 8, 1946, ch. 904, 60 Stat. 937.
(b)	5 U.S.C. 118m	July 19, 1940, ch. 640 § 4 "Sec. 16", 54 Stat. 771.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

#### SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

### SUBCHAPTER IV—FOREIGN GIFTS AND DECORATIONS

#### AMENDMENTS

1967—Pub. L. 90-83, § 1(45)(A), Sept. 11, 1967, 81 Stat. 208, substituted "Foreign Gifts and Decorations" for "Foreign Decorations" in the subchapter heading.

[§ 7341. Repealed. Pub. L. 90-83, § 1(45)(B), Sept. 11, 1967, 81 Stat. 208.]

Section, Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 526, related to receipt and display of foreign decorations, and is now covered by section 7342 of this title.

#### § 7342. Receipt and disposition of foreign gifts and decorations

(a) For the purpose of this section—

(1) "employee" means—

(A) an employee as defined by section 2105 of this title;

(B) an individual employed by, or occupying an office or position in, the government of a territory or possession of the United States or the District of Columbia;

(C) a member of a uniformed service;

(D) the President;

(E) a Member of Congress as defined by section 2106 of this title; and

(F) a member of the family and household of an individual described in subparagraphs (A)-(E) of this paragraph;

(2) "foreign government" means a foreign government and an official agent, or representative thereof;

(3) "gift" means a present or thing, other than a decoration, tendered by or received from a foreign government; and

(4) "decoration" means an order, device, medal, badge, insignia, or emblem tendered by or received from a foreign government.

(b) An employee may not request or otherwise encourage the tender of a gift or decoration.

(c) Congress consents to—

(1) the accepting and retaining by an employee of a gift of minimal value tendered or received as a souvenir or mark of courtesy; and

(2) the accepting by an employee of a gift of more than minimal value when it appears that to refuse the gift would be likely to

cause offense or embarrassment or otherwise adversely affect the foreign relations of the United States.

However, a gift of more than minimal value is deemed to have been accepted on behalf of the United States and shall be deposited by the donee for use and disposal as the property of the United States under regulations prescribed under this section.

(d) Congress consents to the accepting, retaining, and wearing by an employee of a decoration tendered in recognition of active field service in time of combat operations or awarded for other outstanding or unusually meritorious performance, subject to the approval of the agency, office or other entity in which the employee is employed and the concurrence of the Secretary of State. Without this approval and concurrence, the decoration shall be deposited by the donee for use and disposal as the property of the United States under regulations prescribed under this section.

(e) The President may prescribe regulations to carry out the purpose of this section.

(Added Pub. L. 90-83, § 1(45)(C), Sept. 11, 1967, 81 Stat. 208.)

#### HISTORICAL AND REVISION NOTES

Section of title 5	Source (U.S. Code)	Source (Statutes at Large)
7342(a)	22:2621	Oct. 15, 1966, Pub. L. 89-673, § 2, 80 Stat. 952.
7342(b)	22:2622	Oct. 15, 1966, Pub. L. 89-673, § 3, 80 Stat. 952.
7342(c)	22:2623	Oct. 15, 1966, Pub. L. 89-673, § 4, 80 Stat. 952.
7342(d)	22:2624	Oct. 15, 1966, Pub. L. 89-673, § 5, 80 Stat. 952.
7342(e)	22:2626	Oct. 15, 1966, Pub. L. 89-673, § 7, 80 Stat. 952.

The definitions of "employee" and "uniformed services" in 5 U.S.C. 2105 and 2101 are broad enough to cover the persons included in 22 U.S.C. 2621(1) with the exception of (1) individuals employed by, or occupying an office or position in, the government of a territory or possession of the United States or of the District of Columbia, (2) the President, and (3) Members of Congress, who, accordingly, are covered in paragraphs (B), (D), and (E). As the Canal Zone Government is an independent agency of the United States, see section 31 of title 2, Canal Zone Code, an employee thereof is an "employee" as defined in 5 U.S.C. 2105.

In subsection (b), the words "An employee may not" are substituted for "No person shall" to conform to the definition applicable and style of title 5, United States Code.

In subsection (c), the words "under regulations prescribed under this section" are substituted for "in accordance with the rules and regulations issued pursuant to this Act".

In subsection (e), the words "The President may prescribe regulations to carry out the purpose of this section" are substituted for "Rules and regulations to carry out the purposes of this Act may be prescribed by or under the authority of the President". Under 3 U.S.C. 301, the President may delegate the authority vested in him by this subsection.

#### WEARING OF CERTAIN DECORATIONS

Section 33A of Act Aug. 10, 1956, ch. 1041, as added by Pub. L. 85-861, Sept. 2, 1958, § 33(e), 72 Stat. 1568, provided: "A member or former member of an armed force of the United States holding any office of profit or trust under the United States may wear any decoration, order, medal, or emblem accepted (1) under the Act of July 20, 1942, chapter 508 (56 Stat. 662), or (2)

before August 1, 1947, from the government of a cobelligerent or neutral nation or an American Republic."

**EX. ORD. NO. 11320. DELEGATION OF AUTHORITY**

Ex. Ord. No. 11320, Dec. 12, 1966, 31 F.R. 15789, provided:

By virtue of the authority vested in me by Section 7 of the Foreign Gifts and Decorations Act of 1966 (Public Law 89-673; 80 Stat. 952) and Section 301 of Title 3 of the United States Code, and as President of the United States, it is ordered as follows:

The Secretary of State, and, when designated by the Secretary of State for such purpose, the Under Secretary of State, are hereby designated and empowered to exercise, without the approval, ratification, or other action of the President, the authority conferred upon the President by Section 7 of the Foreign Gifts and Decorations Act of 1966 to prescribe rules and regulations to carry out the purposes of that Act. Such rules and regulations shall be published in the Federal Register.

LYNDON B. JOHNSON.

**EX. ORD. NO. 11446. ACCEPTANCE OF SERVICE MEDALS AND RIBBONS FROM MULTILATERAL ORGANIZATIONS OTHER THAN UNITED NATIONS**

Ex. Ord. No. 11446, Jan. 16, 1969, 34 F.R. 803, provided:

By virtue of the authority vested in me as President of the United States and as Commander in Chief of the Armed Forces of the United States, I hereby authorize the Secretary of Defense, with respect to members of the Army, Navy, Air Force, and Marine Corps, and the Secretary of Transportation, with respect to members of the Coast Guard when it is not operating as a service in the Navy, to prescribe regulations for the acceptance of medals and ribbons which are offered by multilateral organizations, other than the United Nations, to members of the Armed Forces of the United States in recognition of service conducted under the auspices of those organizations. A determination that service for a multilateral organization in a particular geographical area or for a particular purpose constitutes a justifiable basis for authorizing acceptance of the medal or ribbon offered to eligible members of the Armed Forces of the United States shall be made with the concurrence of the Secretary of State.

LYNDON B. JOHNSON.

**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in title 22 section 2458a.

**SUBCHAPTER V—MISCONDUCT**

**§ 7351. Gifts to superiors**

An employee may not—

- (1) solicit a contribution from another employee for a gift to an official superior;
- (2) make a donation as a gift to an official superior; or
- (3) accept a gift from an employee receiving less pay than himself.

An employee who violates this section shall be removed from the service.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 527.)

**HISTORICAL AND REVISION NOTES**

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 113	R.S. § 1784.

The application of the section is confined to employees, since the President and Members of Congress, though officers, could not have been intended to be "summarily discharged", and members of uniformed services are not covered by this statute. In the last sentence, the word "removed" is substituted for "sum-

marily discharged" because of the provisions of the Lloyd-LaFollette Act, 37 Stat. 555, as amended, and the Veterans' Preference Act of 1944, 58 Stat. 387, as amended, which are carried into this title.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

**CROSS REFERENCES**

Removals from competitive civil service only for cause, see section 7501 of this title.

**§ 7352. Excessive and habitual use of intoxicants**

An individual who habitually uses intoxicating beverages to excess may not be employed in the competitive service.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 527.)

**HISTORICAL AND REVISION NOTES**

<i>Derivation</i>	<i>U.S.C Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 640	Jan. 16, 1883, ch. 27, § 8, 22 Stat. 406.

The word "employed" is substituted for "appointed to, or retained in" because it includes both.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

**CHAPTER 75—ADVERSE ACTIONS**

**SUBCHAPTER I—COMPETITIVE SERVICE**

Sec.

7501. Cause; procedure; exception.

**SUBCHAPTER II—PREFERENCE ELIGIBLES**

7511. Definitions.

7512. Cause; procedure; exception.

**SUBCHAPTER III—HEARING EXAMINERS**

7521. Removal.

**SUBCHAPTER IV—NATIONAL SECURITY.**

7531. Definitions.

7532. Suspension and removal.

7533. Effect on other statutes.

**CHAPTER REFERRED TO IN OTHER SECTIONS**

This chapter is referred to in section 3382 of this title; title 39 section 1005.

**SUBCHAPTER I—COMPETITIVE SERVICE**

**§ 7501. Cause; procedure; exception**

(a) An individual in the competitive service may be removed or suspended without pay only for such cause as will promote the efficiency of the service.

(b) An individual in the competitive service whose removal or suspension without pay is sought is entitled to reasons in writing and to—

- (1) notice of the action sought and of any charges preferred against him;
- (2) a copy of the charges;
- (3) a reasonable time for filing a written answer to the charges, with affidavits; and
- (4) a written decision on the answer at the earliest practicable date.

Examination of witnesses, trial, or hearing is not required but may be provided in the discretion of the individual directing the removal or suspension without pay. Copies of the charges, the notice of hearing, the answer, the reasons for and the order of removal or suspension without pay, and also the reasons for reduction in grade or pay, shall be made a part of the re-